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H039

Feb 6, 1981

Mr. Gary W. Mize
Vice President
Mead Johnson and Company
Evansville, Indiana 47721

Dear Mr. Mize:

On behalf of Dick McCall and all the others in the Department of State who received your letter of January 13, I would like to thank you for providing these detailed comments on the fourth draft of the code. I know that they will be very valuable to us as we prepare for the Assembly in May.

Neil Boyer brought back from Geneva copies of the provisional summary records of the Executive Board's debate on infant feeding. While you may have obtained them from other sources, I am enclosing a set for your reference.

I hope that we can stay in touch on the infant feeding question. We would appreciate your thoughts on the resolution presented for adoption by the Assembly, as well as anything you can tell us about your own strategies over the coming months.

Sincerely,

Sarah G. Power
Deputy Assistant Secretary
for Human Rights and
Social Affairs
Bureau of International
Organization Affairs

Enclosure:
As Stated

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Mead Johnson & COMPANY / EVANSVILLE, INDIANA 47721

VICE PRESIDENT

January 13, 1981

Richard McCall
Assistant Secretary
International Organization Affairs
Department of State
2201 C Street NW, Room 6323
Washington, D.C. 20520

Dear Mr. McCall:

On December 11, 1980, officials representing the Departments of State, Commerce, and Health and Human Services met with representatives of three infant formula manufacturers to discuss the World Health Organization's final draft of an international code of marketing of breastmilk substitutes. Representing Bristol-Myers' International Division and Bristol-Myers' Mead Johnson & Company subsidiary were Mr. Rod Hamel and myself.

Through the discussions at the December 11th meeting, there was a clear consensus that the final draft code was seriously deficient in several respects. There was also a clear consensus that should any such code be adopted by the World Health Assembly, it should be in the form of a recommendation in the sense of Article 23 of the W.H.O. Constitution rather than a regulation in the sense of Articles 21 and 22 of the W.H.O. Constitution. In addition, there appeared to be a clear understanding that any code which the World Health Assembly might adopt would need to be modified by any Member States electing to implement it in light of their respective social, political, economic, regulatory, and overall developmental situations.

Even though the primary defects in the W.H.O.'s final draft code seemed to be well recognized by virtually all participants in the December 11th meeting, we believe it may be useful and informative to share a detailed critique of the draft. This is presented in the attached document. The critique is developed by presenting the language of the fourth draft with revisions of troublesome passages along with related comments and explanations.

Basically, as discussed in the Introduction of the attached critique, the final draft code is viewed as anti-promotion, anti-competition, and arbitrary. Lest this general assessment be construed as overly critical, we would urge consideration of these three points:

- The final draft is designed to effectively prohibit any activity which could be considered as promotion within the facilities of the health care system as well as to the public.

- The final draft is designed to further deter promotion and effectively discourage legitimate competition through its prohibition of any compensation related to sales performance.

- And finally, the draft contains many restrictions, prohibitions, and requirements which are unrelated to the stated aim of the code, i.e., they are completely arbitrary.

While we readily subscribe to the principle that the marketing of breastmilk substitutes should never be designed to discourage breastfeeding, we find in this principle absolutely no justification for many provisions of W.H.O.'s final draft code.

We continue to believe that responsible competition between companies to research, develop, manufacture, and promote the safe and appropriate use of nutritionally sound infant formulas results in better products, better information, and better services, all of which provide important benefits to the health care community, to the public, to mothers, and to infants. This most fundamental premise is not reflected in W.H.O.'s final draft code and its absence is viewed as one of the draft's most serious defects.

We hope that the detailed critique being provided will contribute to a greater appreciation of the many deficiencies in W.H.O.'s final draft and will be of assistance in further development of the United States' position on this matter.

Sincerely,

Gary W. Mize
Vice President

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attachment

A CRITIQUE
of the
WORLD HEALTH ORGANIZATION'S
FOURTH DRAFT
of an
INTERNATIONAL CODE
for the
MARKETING OF BREAST MILK SUBSTITUTES

(Recommendation Version)

BRISTOL-MYERS
JANUARY 1981